CAVEATED

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench

Civil Revision No. 62 / 2006

Revisionist
1. Dilip Thakur Age 55 Years
S/o Lt. Babulal Thakur
1. Smt. Bela Thakur Age 50 Yrs
w/o Dilip Thakur
Both R/o City Kotwali Chowk,
Behind Canera Bank,
Budhapara, Raipur.

VERSUS

Non-Applicant
1. Pradeep Kumar Thakur
S/o Lt. Babulal Thakur
Age 50 Years
By Attorney Smt. Ganga Thakur
W/o P. K. Thakur Age 40 Yr
Temp. R/o Near Naidu G Resi.,
Ganesh Chowk, Mathpara,
Raipur
2. Ashok Kumar Thakur
S/o Lt. Babulal Thakur
Age 50 Years
R/o MP *Aayaat – Niryaat* Office,
TT Nagar, Bhopal MP

R.R. No. 163 & 164
Presented by Smt. Kavita Sharma
dated 14/8/06

OATH COMMISSIONER
S.R. Kaushik
BILASPUR TAHSIL (M.P.)
14/8/06

Seeking Revision *of Order Dated 4/05/06 DJ Raipur, In MJC 09/06.*

REVISION U/s 115 OF CPC, 1908.

Factual Matrix

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक C.R.No.82/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	15-6-2006 Mr. Raja Sharma, learned counsel for the applicants. Heard. The applicants have preferred this instant revision under Section 115 of the Code of Civil Procedure, as they are aggrieved by the order dated 4-5-2006 passed in M.J.C.No.9/2006, by which the application preferred by the plaintiff - non-applicant No.1 under Order 33 Rules 1 and 2 of the Code of Civil Procedure for permission to file the suit as indigent person has been allowed. Learned counsel for the applicants submits that the above order has been passed in utter disregard of the provisions of Order 33 Rules 2, 3 and 5 of the Code of Civil Procedure, as the plaintiff had not mentioned particulars required in regard to the plaint and suit and had not mentioned the particulars of the movable and immovable property belonging to him and estimated value thereof and the same was not signed and verified in the manner prescribed for signing and verifying the pleadings and as such the same was liable for rejection as per provisions of Order 33 Rule 5 of the Code of Civil Procedure, and the impugned order has been passed without conducting proper enquiry, only on the basis of the certificate given by the Ward Member. Learned counsel for the applicants submits that the instant Civil Revision is maintainable, as in case the application preferred by the plaintiff – non-applicant No.1 was rejected and the impugned order had been passed in favour of the defendants, in that case, the M.J.C. would	

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

C.R.No.82/06

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

have been terminated finally, as on that date, there was no Civil Suit pending before the Court below.

I have heard learned counsel for the applicants.

I am unable to accept the arguments advanced by learned counsel for the applicants, firstly on the ground that the application under Order 33 Rules 1 and 2 of the Code of Civil Procedure is preferred by an indigent person, and in case, the application so moved is rejected by the Court below after enquiry and the order is passed against the plaintiff, in that case, the plaintiff is directed to make good the deficit of Court-Fees and if the deficit of Court-Fees is not made good, the suit was liable to be dismissed. Since the impugned order, even if had been passed against the plaintiff, the proceedings would not have been disposed of finally, taking into consideration the bar contained in Section 115 of the Code of Civil Procedure, the instant Civil Revision, in the present form, is not maintainable and the same is rejected at the motion stage itself.

At this stage, learned counsel for the applicants submits that the applicants be accorded liberty to file an appropriate proceeding available under the law against the impugned order.

The prayer is granted.

Sd/-
Dhirendra Mishra
Judge

Gopal